

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
EASTERN GRAND DIVISION

**FILED**

ROBERT L. YATES,  
Claimant,

v.

STATE OF TENNESSEE,  
Defendant.

Claim No. 20090637

OCT 15 2009

Tennessee Claims Commission  
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**ORDER DISMISSING CLAIM**

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**THIS MATTER IS BEFORE** the undersigned on the Defendant's Motion to Dismiss, the Claimant's Response, and the Record as a whole.

Motions pending before the Tennessee Claims Commission ("the Commission") are to be decided without oral argument pursuant to Tennessee Claims Commission Rule 0310-1-1-.01(5)(a) unless otherwise ordered. There has been no order for oral argument in this matter. Further, there has been no motion by either party for oral argument. Therefore, the State's Motion is properly before the Commission and will be heard on the record.

This claim was filed by inmate Robert L. Yates with the Division of Claims Administration on December 11, 2008. Mr. Yates alleges that he was fired from his prison job as a cleaner because he suffered a fall while mopping and also because of "security concerns that can't be explained". His claim goes on to state that on December 4, 2008, a correctional officer asked him to snitch on other inmates and because he would not, he lost his job and was moved to another unit which caused him to lose credit days toward his eventual release date. In that claim, he requested damages in the amount of One Hundred Seventy-Five Thousand Dollars

(\$175,000.00).<sup>1</sup>

In a subsequent document captioned "A Claim for Relief for Injury on Job" received by the Commission on July 23, 2009, Mr. Yates again states that he was removed from his job because he had suffered an on-the-job injury and prayed for three alternative remedies. First, he asked that the Commission "Restore my injury completely plus sixty-five thousand dollars"; secondly, he requested lifetime free medical plus forty-five thousand dollars; and third, he asked to be "completely checked over by specialists plus twenty-five thousand dollars". That document also contains a letter to the undersigned Commissioner from Mr. Yates stating that "My claim or formal complaint is that I was did (sic) very wrong by the staff here at this prison for basely (sic) not telling on people".

On April 6, 2009, Mr. Yates filed a copy of an Inmate Grievance which was filed at the prison on May 5, 2008. That Inmate Grievance basically outlines in some detail Mr. Yates contention that the reason he lost his job as a cleaner was his refusal to snitch or tell on other inmates who might have been involved in an illicit underground economy at his prison involving cigarettes and "dope". In a cover letter contained with that Inmate Grievance form, Mr. Yates goes on to contend that the unjustified allegations made against him and his refusal to snitch on other inmates caused him to lose his job and resulted in a loss of between twenty-five (24) and thirty (30) days of good time credits between December of 2008, and March of 2009. The import of Mr. Yates' Inmate Grievance is that he was not involved in the prohibited underground economy and did not have the information regarding the same which Correctional Officer Pennington sought.

Subsequently, on August 5, 2009, the State filed a Motion to Dismiss both this claim and claim number 2009636, which has been addressed in a separate opinion. With regard to the

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<sup>1</sup> In claim number 20090636, Mr. Yates sought damages for his fall. That claim has been addressed in a decision issued the same day as the Commission's ruling in this case.

claim asserted here regarding Mr. Yates' loss of his job, the State contends vigorously that the Commission does not have jurisdiction over Mr. Yates' loss of job claim.

The State's argument implicates the concept of sovereign immunity, or in other words, the State's immunity against suit.

First, it is now axiomatic that the jurisdiction of this Commission represents a closely and narrowly delineated waiver of sovereign immunity granted by the electorate's representatives, the General Assembly of the State. This waiver of sovereign immunity, in its current form, dates back to 1984 with the passage of the Tennessee Claims Commission Act.

This Commission has a limited jurisdiction which represents a partial waiver of the State's innate common law sovereign immunity. Sovereign immunity is a principle of law immunizing a governmental body against suit. It has long been a part of the jurisprudence of every state in the Union. The thought behind the concept is the protection of the government against a wide variety of legal claims which could, without sovereign immunity, cause a state severe financial problems to the detriment of the population as a whole.

The doctrine of sovereign immunity against suit in Tennessee derives from the common-law as it developed in North Carolina and subsequently in this state. *Lucas v. State*, 141 SW3d 121, 125 (Tenn. Ct. App. 2004).

With that principle in mind, the drafters of the Constitution of Tennessee embedded as a paramount principle of governance the concept that only the Legislature of the State could determine those circumstances in which the shield of sovereign immunity would be lowered and suit against the State permitted. Article I, Section 17 of our Constitution provides as follows:

“Section 17. That all courts shall be open; every man, for an injury done him and his lands, goods, person or reputation, shall have remedy by due course of law and right and justice administered, without sale, denial or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by

law direct. (Emphasis supplied.)

The General Assembly itself later enacted statutory law which reiterates the concept of the sovereign immunity of this State. Tennessee Code Annotated, section 20-13-102(a) reads as follows:

“20-13-102. Actions Against State Prohibited. – (a) No court in the state shall have any power, jurisdiction or authority to entertain any suit against the state, or against any officer of the state acting by authority of the state, with a view to reach the state, its treasury, funds, property, and all such suits shall be dismissed as to the state or such officers, on motion, plea or demurrer of the law officer of the state, or counsel employed for the state.” See also *Brewington v. Brewington*, 387 SW2d 777, 778-779 (1965).

However, in 1984, the General Assembly made a significant change to the law of sovereign immunity with the enactment of The Tennessee Claims Commission Act, Tennessee Code Annotated, sections 9-8-301. In Tennessee Code Annotated, section 9-8-307(a)(1), the Legislature set out very clearly those areas in which the State has relinquished its immunity to the financial extent permitted by other provisions of that Act.

An adjunct principle to the State’s decision, through its Legislature, to partially waive its sovereign immunity rights is the rule that statutes waiving immunity, because they are in derogation of the common-law, must be strictly construed. *State ex Rel Allen v. Cook*, 106 SW2d 858, 860 (1937); *Stokes v. University of Tennessee*, 737 SW2d 545, 547, (Tenn. Ct. App., 1987).

The Supreme Court has made it abundantly clear that if a particular cause of action is not enumerated in Tennessee Code Annotated, sections 9-8-307, this Commission does not have jurisdiction since sovereign immunity has been waived only in the areas set out therein.<sup>2</sup> *Stewart v. State*, 33 S.W.3d 785, 790 (Tenn. 2000).

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<sup>2</sup> Briefly, the Commission did have jurisdiction of cases involving alleged negligent deprivation of constitutional rights. However, in 1989, the words “or constitutional” were deleted from Tennessee Code Annotated, section 9-8-307(a)(1)(N). See *Shell v. State*, 893 S.W.2d 416, 418-420 (Tenn. 1995).

The Commission has thoroughly reviewed Tennessee Code Annotated, section 9-8-307 and there is clearly no grant to this Commission of the jurisdictional power to consider Mr. Yates' job loss claim. These categories are very straightforward and represent the only areas in which the legislature has given this Commission jurisdiction.

Therefore, this claim cannot be considered by the Commission and must be respectfully  
**DISMISSED.**

ENTERED this the 7<sup>th</sup> day of October, 2009.



**William O. Shults, Commissioner**  
P.O. Box 960  
Newport, TN 37822-0960

### **CERTIFICATE OF SERVICE**

I certify that a true and exact copy of the foregoing Order has been forwarded to:

**Robert L. Yates, #117729**  
**S.T.S.R.C.F.**  
**1045 Horsehead Road**  
**Pikeville, TN 37367**

**Kellena Baker, Esq.**  
**Office of the Attorney General**  
**P.O. Box 20207**  
**Nashville, TN 37202-0207**

This the 15<sup>th</sup> day of October, 2009.

